

Message Text

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12

ACTION ARA-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 IO-13

DHA-02 AID-05 /077 W

----- 122113

R 132216Z AUG 76

FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 0858

C O N F I D E N T I A L SANTIAGO 7912

EO 11652: GDS

TAGS: PGOV, PINT, CI, SHUM

SUBJ: PRESIDENTIAL ADVISER ON SEPTEMBER 11 CELEBRATION,
CONSTITUTIONAL ACTS, INSTITUTIONAL REFORM, AND HUMAN RIGHTS

REF: A) SANTIAGO 6815 B) SANTIAGO 6962

1. SUMMARY: PRESIDENTIAL PUBLIC AFFAIRS ADVISER ALVARO PUGA TALKED ABOUT PREPARATIONS FOR THIRD ANNIVERSARY OF JUNTA SEPTEMBER 11, THE PROMULGATION OF CONSTITUTIONAL ACTS THAT DAY, THE FORM THE NEW LEGISLATURE EVENTUALLY IS LIKELY TO TAKE, AND GOC HUMAN RIGHTS PRACTICES. HIS MOST IMPORTANT POINT: THE CONSTITUTIONAL ACT ON HUMAN AND POLITICAL RIGHTS AND DUTIES WILL BECOME EFFECTIVE WHEN PROMULGATED, BUT WITH MODIFICATIONS DUE TO THE STATE OF EMERGENCY. NEW LEGISLATION ON NATIONAL SECURITY WILL ALSO BE ISSUED; IT WILL DEFINE CRIMES COVERING MOST OFFENSES FOR WHICH PEOPLE ARE NOW DETAINED UNDER EMERGENCY AUTHORITY. AFFECTED PERSONS CAN THEREFORE BE TRIED, RATHER THAN DETAINED WITHOUT CHARGE. END SUMMARY.

2. SEPTEMBER 11 CELEBRATION: EMBOFF AUGUST 11 COMMENTED TO PUGA THAT IT LOOKED SO FAR AS THOUGH THE SEPTEMBER 11 CELEBRATION WOULD BE LOWER KEY THAN IN 1974 AND 1975. PUGA SAID THE GOC WAS NOW EXPERT IN ORGANIZING THE CELEBRATION AND COULD PREPARE FOR IT MORE EASILY. MOREOVER, SEPTEMBER 11 FALLS ON A SATURDAY; SINCE PEOPLE WILL BE LESS INCLINED TO
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TURN OUT THAT NIGHT, THE MAIN EVENT WILL BE A PARADE

ORGANIZED BY THE YOUTH FRONT OF NATIONAL UNITY (A GOVERNMENT FRONT), PLUS THE USUAL FORMAL PRESIDENTIAL SPEECH AND A MASS AT THE MILITARY SCHOOL. (A MILITARY MASS IS NOW STANDARD, SINCE THE CARDINAL HAS REFUSED THE USE OF THE CATHEDRAL. IT APPEARS THAT THE GOVERNMENT FEARS AN EVENING CELEBRATION WOULD ATTRACT FEWER PEOPLE, AND HAS OPTED FOR A PARADE IN LATE MORNING, WHEN PEOPLE ARE DOWNTOWN FOR SHOPPING.)

3. SEPTEMBER 11 SUBSTANCE: PUGA SAID THAT THE LAWYERS WERE STILL WORKING ON THE CONSTITUTIONAL ACTS (REFTELS), BUT THEY SHOULD BE READY BY THE 11TH. THE ONE DEALING WITH HUMAN AND (HE QUICKLY ADDED) OTHER RIGHTS AND DUTIES WILL COME INTO EFFECT WHEN EVENTUALLY PROMULGATED. IT WILL, OF COURSE, TAKE INTO ACCOUNT THE EXISTENCE OF THE STATE OF EMERGENCY. PUGA EXPECTED THAT THE STATE OF SIEGE WOULD BE REDUCED FROM THE PRESENT THIRD TO THE FOURTH AND LOWEST LEVEL (THERE ARE TWO OTHER LEVELS OF EMERGENCY BELOW THE STATE OF SIEGE).

4. PUGA EXPLAINED THAT A CONSTITUTIONAL ACT ON NATIONAL SECURITY WILL BE AMPLIFIED BY A CODE OF NATIONAL SECURITY. THE IMPLEMENTING CODE WILL DEFINE CRIMES NOT NOW COVERED BY CHILEAN LAW -- E.G., THROWING SUBVERSIVE PAMPHLETS INTO

DOWNTOWN OFFICE WINDOW. IT WILL THEREFORE NOT BE NECESSARY TO DETAIN SO MANY PEOPLE UNDER STATE OF SIEGE AUTHORITY; THEY CAN INSTEAD BE ARRESTED AND TRIED UNDER THE NEW LEGISLATION. SINCE PRESENT STATE OF SIEGE DETAINEES CANNOT BE TRIED EX POST FACTO WITHOUT THEIR CONSENT, THEY WILL BE ALLOWED TO CHOOSE THE EASIEST WAY OUT: EITHER TRIAL UNDER THE NEW LAW, OR PROBABLE EXILE EVENTUALLY UNDER EMERGENCY AUTHORITY. (AN OBVIOUS THIRD POSSIBILITY IS CONTINUED INDEFINITE DETENTION IF THE PERSON DOES NOT WANT TO RISK TRIAL AND THE GOC DOES NOT RELEASE HIM IN-COUNTRY OR INTO EXILE.) PUGA SAID THE NEW SECURITY LEGISLATION IS MODELED AFTER CURRENT GERMAN LAW.

5. THE NEW PRESIDENCY AND NEW LEGISLATURE: PUGA TALKED AT LENGTH ABOUT THE CHILEAN'S DEMOCRATIC SPIRIT, WHICH CANNOT BE ERADICATED, AND THE INEVITABLE RETURN TO DEMOCRACY AFTER THE INTERLUDE OF THE MILITARY GOVERNMENT. THE PRESIDENCY IS CONFIDENTIAL

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BEING BUILT INTO A VERY STRONG ONE. AND THE MOVE TOWARD A NEW, PROBABLY UNICAMERAL LEGISLATURE BEGAN WITH THE CREATION OF THE COUNCIL OF STATE. PUGA SAID THERE IS STILL NOTHING DEFINITE, BUT GOVERNMENT LEADERS HAVE IN MIND CREATING A LEGISLATURE COMPOSED OF THREE ELEMENTS: (1) "NOTABLES" -- SIMILAR TO THE PEOPLE CURRENTLY COMPOSING THE COUNCIL OF STATE BUT MORE REPRESENTATIVE ALONG FUNCTION LINES, WHO HAVE HAD DISTINGUISHED CAREERS AND HAVE NO SELFISH INTERESTS;

(2) REPRESENTATIVES OF THE THIRTEEN NATIONAL REGIONS; AND
(3) DIRECT REPRESENTATIVES OF THE PEOPLE, ELECTED ON A MAJORITY BASIS SO THAT EACH ONE REPRESENTS AT LEAST 51 PERCENT OF HIS CONSTITUENCY. ELECTION BY MAJORITY VOTE WOULD FAVOR A TWO-PARTY SYSTEM, BUT THE PARTIES WOULD NOT HOLD THE KEYS TO POWER. THE RECENTLY FORMED LEGISLATIVE COMMITTEES WOULD ALSO BE FOLDED INTO THE NEW SYSTEM.

6. HUMAN RIGHTS IN CHILE: PUGA SPOKE OF THE INJUSTICE OF THE CAMPAIGN AGAINST CHILE. HIS LATEST GALLUP POLL SHOWED THAT ONLY FOUR PERCENT OF CHILEANS WERE CONCERNED ABOUT THE STATE OF THEIR HUMAN RIGHTS, WHEREAS 26 PERCENT OF THE US PUBLIC WAS WORRIED ABOUT RIGHTS IN CHILE. WHY SHOULD THE US WORRY MORE THAN THE CHILEANS? AND BESIDES, WITH THE NEW LEGISLATION, THE 400 DETAINEES WOULD WITHER AWAY.

7. EMBOFF REPLIED THAT WHAT HAPPENS TO THE 400 PERSONS DETAINED WITHOUT CHARGE WAS IMPORTANT, BUT MORE WORRISOME WAS THE CONTINUING ABSENCE OF GUARANTEES FOR THE PERSON. A NUMBER OF PEOPLE STILL "DISAPPEAR" -- THAT IS, ARE DETAINED ILLEGALLY BY THE AUTHORITIES. THE AUTHORITIES THEMSELVES ARE CHARGED WITH INVESTIGATING THE DISAPPEARANCES, AND IN THE ABSENCE OF AN INDEPENDENT MONITOR IT IS IMPOSSIBLE TO KNOW EXAPMLY WHAT IS HAPPENING.

8. COMMENT: PUGA ALSO SAID THAT THE GOVERNMENT HAD DECIDED TO STOP PUBLISHING ITS PERIODIC GALLUP POLLS BECAUSE PEOPLE TENDED TO READ TOO MUCH INTO SHIFTS OF A FEW PERCENTAGE POINTS. WE SURMISE, HOWEVER, THAT THE POLLS SHOW GOVERNMENT SUPPORT IS DOWN SIGNIFICANTLY.

9. PUGA IS NOT THE PERFECT SOURCE ON WHAT THE GOVERNMENT INTENDS TO DO, BUT HE IS WELL INFORMED AND IN THE PAST HAS CONFIDENTIAL

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GIVEN US GOOD INDICATIONS OF FUTURE EVENTS. HIS INFORMATION ON SEPTEMBER 11 PLANS IS NOT AUSPICIOUS AS REGARDS THE GOC COMMITMENT ON HUMAN RIGHTS MADE TO SECRETARY KISSINGER DURING THE JUNE OASGA (PARA FIVE, REF A). IN SPEAKING OF THE ACT ON NATIONAL SECURITY, PUGA PRESUMABLY HAD IN MIND THE ONE ON EMERGENCY POWERS, WHICH THEREFORE WOULD INCLUDE BROAD LANGUAGE ON CRIMES AGAINST THE STATE OR PUBLIC ORDER. IF THE DRAFTING LAWYERS HAVE NOT TURNED OVER THESE CONSTITUTIONAL ACTS TO THE GOVERNMENT BY NOW, THERE WILL BE A GREAT RUSH TO FINISH THEM BY THE 11TH. PINOCHET, HOWEVER, MAY END UP HAVING TO POSTPONE PROMULGATION AS THE GOVERNMENT HAS DONE BEFORE. THE IMPLEMENTING NATIONAL SECURITY CODE HAS BEEN IN THE WORKS FOR TWO YEARS. WE HAVE NO INDICATION THAT IT IS NEAR PUBLICATION, OR WHETHER IT WILL ENSURE REAL JUSTICE TO OFFENDERS AGAINST NATIONAL SECURITY.

10. ACTION REQUESTED: IF PRACTICAL, SEND THE EMBASSY
ENGLISH-LANGUAGE TEXTS OR ANALYSIS OF CURRENT GERMAN
SECURITY LEGISLATION.
POPPER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: HUMAN RIGHTS, ANNIVERSARY MESSAGES, CONSTITUTIONAL AMENDMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 13 AUG 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CunninFX
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976SANTIA07912
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760312-1138
From: SANTIAGO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760855/aaaabvsk.tel
Line Count: 174
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 SANTIAGO 6815, 76 SANTIAGO 6962
Review Action: RELEASED, APPROVED
Review Authority: CunninFX
Review Comment: n/a
Review Content Flags:
Review Date: 15 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <15 JUL 2004 by ShawDG>; APPROVED <27 OCT 2004 by CunninFX>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PRESIDENTIAL ADVISER ON SEPTEMBER 11 CELEBRATION, CONSTITUTIONAL ACTS, INSTITUTIONAL REFORM, AND HUMAN RIGHTS
TAGS: PGOV, PINT, SHUM, CI, (PUGA, ALVARO)
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006